IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 988 of 2005

Between:

1 P. Rami Reddy S/o P.S. Reddy
R/o Remidicherla Village, Bollapalli Mandal, Guntur District
2 P. Lakshmi Devi W/o Atchi Reddy,
Vellaturu Village, Bollapalli Mandal, Gutur District

..... PETITIONERS

AND

The District Collector, (Civil Supplies) Guntur

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Mandamus, declaring the order of the respondent in Proceedings Rc.No. 1587/2004/SI, dt 2-12-2004 in so far as it relates to the Fair Price Shops of Remidicherla and Vellaturu Villages, of Bollapalli Mandal, Guntur District, as illegal and arbitrary and consequently set a side the same.

Counsel for the Petitioners: MR.P.ROY REDDY

Counsel for the Respondent: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The first petitioner is the dealer of one of the fair price shops at Remidicherla village and the second petitioner is the dealer of one of the shops at Vellaturu village of Guntur district. Through proceedings, dated 02.12.2004, the respondent had re-constituted the fair price shops in certain villages, including those in the two villages referred to above. The grievance of the petitioners is that the re-organization of the shops was undertaken without any notice to them and the allocation of cards is contrary to the guidelines issued by the Government in Memo dated 28.02.1999, and they seek appropriate directions in this regard.

Heard learned counsel for the petitioners and learned Government Pleader for Civil Supplies.

Through a catena of decisions, the Supreme Court and this Court held that distribution of essential commodities through fair price shops is the prerogative of the State and no individual can claim any fundamental right in relation to it. It was also held that in the matter of re-organization or bifurcation of existing fair

price shops, the existing dealers do not have any right to be put on notice. Therefore, the first contention advanced on behalf of the petitioners that they were not put on notice before a new shop was created by allotting some of the cards from them, cannot be countenanced. The second contention on behalf of the petitioners deserves consideration. The Government issued a Memo dated 28.02.1999 laying down the guidelines in the matter of re-organization of existing fair price shops. It was clearly laid down that while establishing a new fair price shop or bifurcating the existing one, it should be ensured that the dealer is left with at least 350 cards in rural areas, 500 cards in municipal areas and 800 cards in cities. From a perusal of the impugned order, it is evident that the first petitioner is supplying the essential commodities to 590 card-holders, comprising 486 white and 106 pink cards. Out of the two shops at Remidicherla village, a new one was carved out. In the process, the first petitioner was left with 332 cards in all, comprising 236 white and 96 pink cards. As against this, the proposed new shop is allotted with 340 cards, comprising 330 white and 10 pink cards. Though similar re-arrangement took place in respect of the fair price shops in Vellaturu village, the total number of cards that were left with the second petitioner conform to the requirement under the Memo.

However, the grievance of the petitioners that hardly any supplies are being made to holders of pink cards and in the process of re-allocation, they are left with least number of white cards and thereby the shops are rendered economically unviable, cannot be brushed aside. This Court cannot indicate any definite pattern or procedure in these matters, except to insist on that the Memo dated 28.02.1999 is implemented in its letter and spirit.

For the foregoing reasons, the writ petition is disposed of, leaving it open to the petitioners to make necessary representations to the respondent pointing out their grievances. On receipt of the same, the respondent shall take appropriate steps. It is stated that no dealers as such has been appointed for the newly carved out shops. In that view of the matter, the impugned order insofar as it relates to the shops in the villages of Remidicherla and Vellaturu shall not be given effect to, till the disposal of the representations of the petitioners. There shall be no order as to costs.

28.01.2005

ksld

To

1. The District Collector, (CIvil Supplies) Guntur

2. Two C.Cs. to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad, (OUT).

3. Two C.D. Copies.